

DELBELLO DONNELLAN WEINGARTEN
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

SHELLEY FOOD STORES, INC. II,

Chapter 11

Case No. 15-23535 (RDD)

Debtor.

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**APPLICATION TO EMPLOY AND RETAIN DELBELLO DONNELLAN
WEINGARTEN WISE & WIEDERKEHR, LLP AS ATTORNEYS FOR
DEBTOR, NUNC PRO TUNC AS OF THE PETITION DATE**

**TO: HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE,**

Shelley Food Stores, Inc. II, the above-captioned Debtor and Debtor-in-Possession (the “Debtor”), by its President Scott Geller, files this Application (the “Application”) seeking entry of an order authorizing the retention of DelBello Donnellan Weingarten Wise & Wiederkehr, LLP (the “DelBello Firm”) as its attorneys. In support of its Application, the Debtor respectfully alleges as follows:

Jurisdiction

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper

pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory basis for relief requested herein is § 327(a) of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the “Bankruptcy Code”) and Rules 2014(a) and 6003 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

Background

3. On October 23, 2015, (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

4. The Debtor has continued in possession of its property and the management of its affairs as a debtor-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner or statutory committee has been heretofore appointed in this proceeding.

5. The Debtor is a foodservice manufacturer and distributor in the Metro Tri-State area.

Relief Requested

6. The Debtor seeks to retain the DelBello Firm as its attorneys to file and prosecute its Chapter 11 case and all related matters, effective as of the Petition Date. Accordingly, the Debtor requests entry of an order in substantially the form annexed hereto and pursuant to Bankruptcy Code § 327(a) and Bankruptcy Rule 2014(a) authorizing the Debtor to employ and retain the DelBello Firm as its attorneys to perform services necessary in the Chapter 11 case.

7. The professional services the DelBello Firm will render to the Debtor includes the following:

- a. To give advice to the Debtor with respect to its powers, duties and responsibilities as a Debtor-in-Possession and the continued management of its property and affairs.

- b. To negotiate with creditors of the Debtor and work out a plan of reorganization and take the necessary legal steps in order to effectuate such a plan including, if need be, negotiations with the creditors and other parties in interest.
- c. To prepare the necessary answers, orders, reports and other legal papers required for the Debtor's protection from its creditors under Chapter 11 of the Bankruptcy Code.
- d. To appear before the Bankruptcy Court to protect the interest of the Debtor and to represent the Debtor in all matters pending before the Court.
- e. To attend meetings and negotiate with representatives of creditors and other parties in interest.
- f. To advise the Debtor in connection with any potential refinancing of secured debt, if necessary, and any potential sale of its assets.
- g. To represent the Debtor in connection with obtaining post-petition financing, if necessary.
- h. To take any necessary action to obtain approval of a disclosure statement and confirmation of a plan of reorganization.
- i. To perform all other legal services for the Debtor which may be necessary for the preservation of the Debtor's estate and to promote the best interests of the Debtor, its creditors and its estate.

8. The Debtor has selected the DelBello Firm for the reason that the DelBello Firm's attorneys have had extensive experience representing debtors in proceedings before this Court and are well suited to represent the Debtor in the instant proceedings. The DelBello Firm has been actively involved in many Chapter 11 cases and has represented many Chapter 11 debtors.

9. It is necessary for the Debtor to employ the DelBello Firm for such professional services pursuant to § 327 of the Bankruptcy Code.

10. To the best of the Debtor's knowledge, the DelBello Firm has no connection with the creditors or any other party in interest or their attorneys, except that it represents the Debtor in this proceeding as stated in the annexed affidavit of Jonathan S. Pasternak, Esq., which is

annexed hereto as **Exhibit “A”**.

11. Subject to Court approval, compensation will be paid to the DelBello Firm for services provided on an hourly basis plus reimbursement of actual, necessary expenses incurred. The DelBello Firm’s 2015 hourly rates for matters related to these Chapter 11 proceedings are as follows:

Partners	\$395.00 to \$595.00
Of Counsel	\$375.00
Associates	\$250.00
Paraprofessionals	\$175.00

12. The hourly rates above are subject to periodic adjustment to reflect economic and other conditions. The hourly rates above are standard, if not below standard rates for work of this nature. These rates are designed to fairly compensate the DelBello Firm for the work of its attorneys and paralegals and to cover fixed routine overhead expenses.

13. On October 16, 2015, the DelBello Firm received a pre-petition retainer payment from the Debtor in the amount of \$37,000. None of the pre-petition retainer was paid towards or on account of any antecedent debt owed to the DelBello Firm by the Debtor within the 11 U.S.C. § 547 period.

14. To the best of the Debtor’s knowledge, the DelBello Firm does not hold or represent any interest adverse to the Debtor’s estate, the DelBello Firm is a “disinterested person” as defined in Bankruptcy Code §101(14), and the DelBello Firm’s employment is necessary and in the best interest of the Debtor and her estate.

15. The DelBello Firm will be paid for the legal services rendered upon application duly filed with this Court pursuant Bankruptcy Code § 330.

16. The Debtor desires to employ the DelBello Firm pursuant to Bankruptcy Code

§327 because of the extensive legal services, which are required and indeed are anticipated for a successful reorganization under Chapter 11 of the Bankruptcy Code.

WHEREFORE, the Debtor respectfully requests entry of the Order annexed hereto as **Exhibit “B”** authorizing it to employ and appoint DelBello Donnellan Weingarten Wise & Wiederkehr, LLP to represent it in this proceeding under Chapter 11 of the Bankruptcy Code, nunc pro tunc, as of the Petition Date, together with such other and further relief as appears just to this Court, for all of which no previous application has been made.

Dated: White Plains, New York
October 19, 2015

SHELLEY FOOD STORES, INC. II

By: /s/ Scott Geller
Scott Geller, President